



Research Article

© 2025 Florida Arrinaj

This is an open access article licensed under the Creative Commons Attribution-NonCommercial 4.0 International License (<https://creativecommons.org/licenses/by-nc/4.0/>)

The necessity of a new approach in the legal migration policies of the EU due to discrimination in the labor market, considering the post-Covid 19 context

PhD (C.) Florida Arrinaj

University "Luigj Gurakuqi", Shkoder, Albania

DOI: <https://doi.org/10.2478/ejels-2025-0001>

Acknowledgments

I would like to express my profound gratitude to the University of Shkodra "Luigj Gurakuqi" for their financial support, which made the publication of this article possible.

Abstract

The global trends in the labor market and the dynamics surrounding migration for employment have become a highly debated and prominent issue within the EU. Labor migration policies within the EU have undergone significant reforms over the years. These changes aim to address the evolving needs of the labor market while managing the migration of workers for employment purposes. This article examines the impact of the EU Blue Card Directive, the Seasonal Workers Directive and the Single Permit Directive on the labor market, with a particular focus on the issues and challenges faced by third country nationals. A valuable contribution has been made in attracting qualified labor force, but on the other hand, these policies have not managed to meet all the needs of migrant workers, especially those with low and medium qualifications. The COVID-19 pandemic has further highlighted the vulnerability of migrant workers, worsening pre-existing disparities in their access to employment opportunities, social services, and labor rights. These precarious conditions have exposed the shortcomings of existing labor migration policies, emphasizing the need for comprehensive reforms that address these inequalities and offer better protection for migrant workers in the post-pandemic context. The post-pandemic period has highlighted the urgent need for comprehensive reforms that not only support economic recovery, but also promote social inclusion and fair treatment of migrant workers. This article will propose recommendations to enhance EU migration policies by focusing on the development of legal migration pathways, implementing anti-discrimination measures, and strengthening integration initiatives. These changes are essential to creating a more equitable and resilient labor market in the EU, fostering better opportunities and protections for migrant workers and promoting social inclusion.

Keywords: Discrimination, EU labor migration, migrant workers, Covid-19 impact, third-country nationals, migration policies.

1. Introduction

Legal migration plays a crucial role in addressing the labor market needs of EU countries while offering individuals an opportunity to improve their circumstances. This topic is especially significant given the current trends in migration and the growing demand for labor in various sectors. The post-COVID-19 era has further exposed challenges related to migrant workers' rights and working conditions. Migration is a very important global issue, especially when it comes to the labor market. It is one of the most important phenomena that affects the labor market. In recent years, migratory processes have changed the demographic structure and also the economic structure of the countries, bringing at the same time as benefits but being accompanied by challenges. In addition to the importance of migration in maintaining the demographic balance, due to the aging of Europe's population, which is also accompanied by a lack of human resources in different work sectors such as construction, health, agriculture, services, technology, etc.

Over the years, various directives have been adopted to regulate the entry and stay of third-country nationals (TCNs) for work purposes, with the main aim of addressing labor shortages and promoting economic growth. Among the most important directives are: The EU Blue Card Directive (2009), the Seasonal Workers Directive (2014) and the Single Permit Directive (2011). Each of them is designed to improve processes, to improve the working conditions of migrant workers and to improve their integration into the labor market. Despite their contributions, these directives exhibit notable shortcomings. For instance, the Blue Card Directive predominantly focuses on attracting highly skilled workers, leaving those in lower-skilled occupations more susceptible to exploitation and discriminatory practices. Similarly, while the Seasonal Workers Directive addresses the needs of migrant workers in specific sectors such as agriculture and tourism, it often fails to protect workers from poor working conditions and limited rights. The single permit directive was intended to simplify the application process for TCNs, but its scope is limited and does not address the needs of all categories of migrants, especially seasonal and posted workers.

This article delves into the advantages and shortcomings of existing EU migration policies, particularly within the post-pandemic framework. It explores how these policies influence the labor market integration of migrant workers and offers recommendations to reduce discrimination, improve working conditions, and ensure equitable treatment for migrants across all skill levels.

2. Labor policies and migration frameworks within the EU

The EU Blue Card Directive was adopted in 2009 with the aim of attracting highly qualified workers from third countries to the EU labor market (Council Directive 2009/50/EC). It highlighted labor force shortages and the need for economic growth

by providing access to housing and work for these qualified workers. In order to be selected, a valid job offer with a salary at least 1.5 times higher than the national average is required, as well as proof of the highest professional qualifications, such as a university degree (European Parliament, 2009). Blue Card holders enjoy advantages such as the right to family reunification, the ability to move within the EU after 18 months, and access to pathways for long-term residency. However, the directive faced significant limitations, including strict selection criteria, high salary thresholds, inconsistent implementation in member states and limited attractiveness compared to national migration schemes (European Commission, 2021). Recognizing these challenges, the EU revised the directive in 2021, lowering salary thresholds, simplifying application procedures and widening access to facilitate integration into the labor market. These reforms aim to increase the effectiveness of the directive in addressing labor market demands, while ensuring fair conditions for TCNs (European Commission, 2021).

Seasonal Workers Directive (2014/36/BE) highlights the need for a structured legal framework for the temporary employment of non-EU nationals in the EU, focusing mainly on seasonal work sectors such as agriculture and tourism (European Parliament and Council, 2014). It establishes admission requirements, including valid employment contracts and proof of sufficient resources, while limiting the length of stay to 6 months within a 12-month period (European Parliament and Council, 2014). This directive promotes equality by ensuring that seasonal workers are treated at the same level with EU citizens regarding working conditions, wages, and social security benefits (European Parliament and Council, 2014). It also holds employers accountable for providing adequate housing opportunities.

Member States maintain flexibility in the implementation of quotas, labor market tests and procedural rules, balancing labor market demands with protections from exploitation (European Parliament and Council, 2014).

The Single Permit Directive was introduced in 2011 with the aim of simplifying the application process for third-country nationals who wish to live and work in the EU and to enable fair and equal treatment (European Parliament and Council, 2011). The directive applies to all third-country nationals who reside legally in a member state for work reasons, leaving out of focus special categories such as seasonal workers and posted workers covered under separate directives. The directive integrates residence and work permits into a single procedure, reducing the administrative burden for both applicants and employers (European Parliament and Council). The directive mandates a unified application process for work and residence permits, which can be initiated in the applicant's country of origin or in the member state where the job can be performed. Workers from non-member states are guaranteed equal treatment with EU citizens in terms of working conditions, wages, health, social security and access to services such as education and training (European Parliament and Council, 2011). Workers have the right to submit their complaints and to have access to legal remedies in case their rights are violated. Regardless of the extension of social security benefits, member states can limit some benefits such as family allowances

under some specific conditions. Member States retain the authority to determine access and selection criteria in the labor market, as well as to decide on quotas for non-EU workers. Excluded from this directive are seasonal workers, posted workers and long-term residents, because they are regulated by special EU regulations (European Parliament and Council, 2011). The Directive aims to harmonize migration procedures across Member States, reduce fragmentation in national systems and ensure that third-country workers are protected from exploitation and discrimination (European Parliament and Council, 2011). By balancing administrative efficiency with workers' rights, it supports both economic needs and social integration in the EU. The directive was recast in April 2024 with the goal of improving the application process. EU member states, with the exception of Denmark and Ireland, are required to implement the directive into national law by May 22, 2026 (European Commission, 2024).

Despite the contributions of these directives to labor migration within the EU, each has notable gaps. The EU Blue Card Directive primarily addresses the migration of highly skilled workers, leaving lower-skilled workers more vulnerable to exploitation and discriminatory practices. Similarly, the Seasonal Workers Directive, which focuses on temporary migration in sectors like agriculture and tourism, often fails to adequately protect migrant workers, exposing them to challenging working conditions and limited rights (European Commission, 2021).

While the Single permit directive has not sufficiently taken into consideration the discrimination against migrant workers in sectors with low wages. A certain category is excluded from the scope of this directive, including the family members of EU citizens who come from third countries, posted workers, etc. (Minderhoud, 2021).

Furthermore, member states tend to prioritize their national policies over EU-level directives, leading to adverse consequences. On April 27, 2024, the European Commission proposed a set of measures aimed at facilitating legal migration from non-EU countries to the EU. However, the impact of these measures is likely to be limited, as access to the EU labor market remains largely under the control of individual member states (Lücke, 2022).

Different categories of migrant workers are regulated through different directives, where it can be seen that some types of migration for work including highly-skilled, seasonal work and intra-corporate transfers are regulated by EU rules, while lower- and medium-skilled are regulated by many of the national legislations (Rasche, 2023).

3. The impact of COVID-19 on labor market discrimination

The COVID-19 pandemic highlighted the crucial role migrants play in sustaining our economies and societies, a contribution that is often overlooked. The COVID-19 pandemic represents not only a public health emergency but also an economic crisis, triggering the most severe global economic contraction since World War II (Sommaribas & Nienaber, 2021).

Throughout the crisis, migrants were essential in ensuring the continued operation

of critical sectors such as supermarkets, public transport, personal care, and hospitals—industries that were already experiencing labor shortages prior to the pandemic (Caritas Europa, 2022). The International Labor Organization noted that migrants were more likely to lose their jobs or have their incomes reduced due to informal, temporary and low-wage employment. In some developing countries, such as Italy, Spain, migrant workers in agriculture, health, construction, were quite affected by exploitation in the workplace, because many of them were excluded from government financial support (ILO, 2020). Such sectors relied heavily on the labor of these migrant workers while offering limited protection against the virus, with many migrant workers unable to work remotely due to the nature of their work (Fasani & Mazza, 2020).

The pandemic also exposed the precarious nature of many migrants' work contracts. A significant proportion of migrant workers are engaged in temporary, seasonal or informal work, which often lacks adequate social protection. As a result, many experienced job losses or reduced working hours during the lockdowns, leaving them financially insecure. In addition, migrants often face language and bureaucratic barriers that prevent access to health care, unemployment benefits or pandemic-related support measures (OECD, 2020).

The pandemic also affected their mental health, increasing the level of stress, fear of infections and isolation due to movement restrictions. For undocumented migrant workers, the fear of deportation prevented them from seeking medical help or support services (ILO, 2021). Living and housing conditions also posed significant challenges, with many migrant workers residing in overcrowded accommodations or temporary shelters. These conditions made social distancing unfeasible and heightened their vulnerability to COVID-19. This issue was particularly pronounced in the agricultural sector, where seasonal workers often lived in shared housing provided by employers (European Commission, 2021).

Despite their criticism, migrant workers were often excluded from public debates on crisis management, highlighting a systematic underestimation of their roles. The pandemic reiterated the need for reforms in EU migration policies to ensure equal access to rights, protection and opportunities for migrant workers, thus promoting resilience and inclusion in future crises (Fasani & Mazza, 2020; OECD, 2020).

4. Post-COVID-19 labor market dynamics and problems

Even the post-pandemic period reiterated the same inequalities faced by migrant workers, regardless of their extraordinary contribution during the crisis. Its socio-economic consequences continue to disproportionately affect migrants. These impacts appear in several key areas, including the recovery of employment policies, access to social services and integration.

Economic recovery in the post-pandemic era has been uneven, with migrant workers often experiencing slower rates of reemployment than native-born workers. Immigrants continue to be involved in low-wage and insecure jobs, which were

among the hardest hit during the pandemic and are now recovering at a slower pace. Migrant workers, particularly women, continue to encounter compounded challenges arising from their gender and migrant status, which further undermine their economic stability (OECD, 2021).

Although access to health care and social services has improved, disparities between the migrant community and local populations remain evident. They highlight gaps in access to health services. For undocumented migrants, the fear of deportation persists and administrative barriers continue to limit access to essential services (EU Agency for Fundamental Rights, 2022).

Following the pandemic, discussions on migration policies have been reignited, underscoring the need for focused attention. Despite the heightened acknowledgment of migrants as “key workers” during the crisis, policy responses have largely fallen short in addressing underlying structural inequalities. Many EU member states still lack comprehensive reforms to establish robust legal migration pathways, enhance working conditions, and promote the social and economic integration of migrants (ILO, 2022).

The housing issue continues to remain a concern. Immigrants often have to deal with unsuitable or economically unaffordable housing, this worsened as a result of the economic changes that came as a result of the pandemic. Overcrowding in housing increased the possibility of infections among immigrants (Eurofound, 2021).

The pandemic highlighted gaps in social safety nets for migrants. Despite temporary measures put in place during the crisis, many migrant workers still face exclusion from long-term social protection. Undocumented migrants are particularly vulnerable due to their limited access to health care, unemployment benefits and other support services (International Labor Organization [ILO], 2023).

The pandemic also disrupted integration processes, especially for newly arrived migrants. Reduced access to language classes, social programs and employment opportunities during the crisis has had lasting effects. Many migrants report challenges in rebuilding their social networks and participating fully in their host communities (EMN, 2023).

5. Recommendations for Policy Reforms

1. *Prioritizing post-pandemic recovery by addressing the inequalities exposed by the COVID-19 crisis.* Immigrants who have experienced job losses should be integrated into reskilling and upskilling initiatives funded by EU recovery programs. Governments can give priority to those sectors where immigrants play key roles such as health, construction, services, making it possible to take into account their economic contributions (OECD, 2023).
2. *Strengthening of anti-discrimination legislation.* As highlighted in this article, discrimination in the labor market is a sensitive issue, affecting various aspects such as recruitment, wages, working conditions, and career advancement. To eliminate the consequences of this discrimination, it is necessary to strengthen

the legal frameworks. Anti-discrimination measures must ensure that all workers, regardless of migrant status or not, receive the same treatment in the workplace. Monitoring mechanisms such as independent equality bodies at work can help detect discriminatory cases and ensure accountability (European Commission, 2022).

3. *Improvement of integration programs, through language courses, different trainings, different cultural orientations and mentoring programs.* To ensure the success of these programs, collaboration between governments, civil society, and businesses is essential. For instance, cooperation between the local population and the migrant community, supported by municipal funding, can positively enhance mutual understanding and help reduce xenophobia (European Commission, 2022). Racism, discrimination, and xenophobia, whether within institutions or among individuals responsible for healthcare delivery, impact the healthcare system's ability to effectively respond to the needs of child migrant populations (Stevens et al., 2023).
4. *Promotion of inclusive policies in the labor market, which can serve to reduce discrimination and economic growth.* Labour migration stands apart from other policy areas because it lacks a clear benchmark to measure its success, making it difficult to evaluate the effectiveness of policies and initiatives in this field (OECD, 2016). Diversity training programs for employers and employees can reduce prejudice and stereotypes (OECD, 2023).
5. *The practical possibility of recognizing qualifications and skills,* which would facilitate the possibility for immigrants to exercise jobs that fit their skills. Similarly, collaboration between EU and non-EU countries on work-related migration can align educational and professional standards, facilitating the transferability of skills (ILO, 2023). In November 2023, the Commission made a recommendation that states work towards the removal of barriers to the recognition of skills and qualifications that make it difficult to migrate legally in that country (European Commission, 2023).
6. *Enhancing social protection measures for migrants,* including access to healthcare, social benefits during periods of unemployment and housing, is crucial. Special focus should be placed on protection policies for temporary and seasonal workers, who often face exploitation and harsh working conditions. Eurofound suggests that governments can address these issues by urging employers to offer proper social insurance and establishing emergency protection mechanisms for migrant workers during crises. Access to health services for refugees and migrants is frequently limited due to economic, legal, and various other factors. These barriers are especially pronounced for undocumented migrants, asylum seekers, and refugees, often stemming from the diverse legal classifications assigned to individuals seeking protection (Savas et al., 2024).
7. *The use of digital work platforms,* which would enable policy-makers to identify patterns of discrimination and adapt interventions in an efficient manner. These portals created specifically for immigrants can serve to match them with employers,

while monitoring practices to prevent exploitation in the workplace (ILO, 2023). In November 2011 it was launched the EU Immigration Portal that aims to simplify access to crucial information for migrants seeking to come to Europe. It provides detailed guidance on legal migration processes, rights, and available support, with a particular focus on facilitating the integration of skilled labor. This initiative plays a key role in easing the transition for migrants, enhancing their ability to navigate the migration system and integrate into European societies effectively (European Commission, 2024).

8. *Promotion and expansion of legal routes for migration*, especially in sectors with shortages in the labor market such as: agriculture, construction, information technology, health and services, while simultaneously offering suitable and safe working conditions. Similarly, providing more opportunities for immigrants to move from temporary status to long-term or permanent residency would promote stability and help reduce exploitation (EMN, 2023).
9. *A global approach to migration governance*, through agreements to facilitate labor mobility and the exchange of skills, which would enable equitable and fair migration practices (ILO, 2023). The EU needs to enhance its policies to better address the international competition for highly skilled workers from third countries. To achieve this, a revised Blue Card system, offering greater flexibility to adapt to national labor market needs, is essential (Minderhoud, 2021).

6. Conclusion

Europe is experiencing demographic shifts with a rapidly aging population and declining birth rates. There is significant diversity in both the types of migrants and their reasons for migration (Kumar et al., 2023). These changes are expected to have significant social and economic impacts, particularly in terms of healthcare and social service demands. To address these challenges, the EU has been promoting legal migration as a strategy to tackle labor shortages, bridge skill gaps, and stimulate economic growth (European Parliament, 2023). EU employment migration policies have made many improvements in order to create legal pathways for third-country nationals and address labor market demands. However, low- and medium-skilled workers are the ones who face more difficulties because they are often excluded from adequate protection, leaving them vulnerable to exploitation and discrimination. The COVID-19 pandemic further exposed these issues, highlighting the precarious conditions and systemic inequalities many migrants face.

In order to build an inclusive labor market, the EU must adopt an approach based on human rights and specifically on workers' rights. Expanding legal migration routes, increasing social protections and ensuring fair wages and working conditions are essential. Coordinated reforms across member states and cooperation with non-EU countries will address labor shortages by promoting the fair treatment of migrants. By recognizing the vital contributions of migrant workers, the EU can create a resilient and sustainable labor market that benefits its economy and society. Comprehensive

reforms are essential to promote equity and cohesion in EU migration policies.

References

- Caritas Europa. (2022). *Why Europe needs more labour migration*. Retrieved from https://www.caritas.eu/wp-content/uploads/2023/07/221215_CE-briefing-paper_labour-migration-V2.pdf
- Council Directive 2009/50/EC. (2009). *On the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*. Official Journal of the EU. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009L0050>
- European Commission. (2021). *Report on the implementation of the EU Blue Card Directive*. Retrieved from https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-resettlement-and-integration/work/eu-blue-card_en
- European Commission. (2024). *Single Permit Directive: Work and stay in the EU*. Retrieved from https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-resettlement-and-integration/work/single-permit-work_en#:~:text=The%20Single%20Permit%20Directive%20adopted,and%20stay%20in%20the%20EU
- European Commission. (2024). *Legal migration, resettlement, and integration*. European Commission. Retrieved December 29, 2024, from https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-resettlement-and-integration_en
- European Parliament and Council. (2011). *Directive 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the EU*. Official Journal of the EU. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0098>
- European Parliament and Council. (2014). *Directive 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers*. Official Journal of the EU. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0036>
- European Parliament. (2023, April 13). *Labour migration: Improving legal avenues to work in the EU*. European Parliament. <https://www.europarl.europa.eu/topics/en/article/20230413STO79903/labour-migration-improving-legal-avenues-to-work-in-the-eu>
- EU Agency for Fundamental Rights (FRA). (2022). *Migrants in the EU: Access to social and healthcare services*. Retrieved from <https://fra.europa.eu/en/publications>
- Eurofound. (2021). *Living and working conditions of migrant workers in the EU*. Retrieved from <https://www.eurofound.europa.eu/publications>
- Eurofound. (2022). *Addressing gaps in social protection for migrant workers during crises*. Retrieved from <https://www.eurofound.europa.eu/publications>
- Fasani, F., & Mazza, J. (2020). *A vulnerable workforce: Migrant workers in the COVID-19 pandemic*. European Parliament Research Service. Retrieved from <https://www.europarl.europa.eu/thinktank/en/document.html>
- International Labour Organization (ILO). (2020). *The impact of COVID-19 on migrant workers and their families*. Retrieved from <https://www.ilo.org/global/publications>
- International Labour Organization (ILO). (2021). *Promoting fair and effective migration governance post-COVID-19*. Retrieved from <https://www.ilo.org/global/publications>
- International Labour Organization (ILO). (2023). *Addressing migrant workers' challenges: Pathways to reform*. Retrieved from <https://www.ilo.org/global/publications>
- Kumar, B. N., Bhopal, A., Blanchet, K., Wickramage, K., & Onarheim, K. H. (2023). Priority setting and migration health policies for European countries. *The Lancet Regional Health – Europe*, 41, 100804. <https://doi.org/10.1016/j.lanepe.2023.100804>
- Lücke, M. (2022). *Access to the EU labor market: National policies vs. EU initiatives*. Retrieved from <https://feeps-europe.eu/the-european-commissions-legal-migration-policy-good-intentions->

limited-impact/

Minderhoud, P. (2021). Regulation of EU Labour Migration: At a Crossroads after the New Pact on Migration and Asylum? *Utrecht Law Review*. <https://utrechtlawreview.org/articles/10.36633/ulr.749>

OECD/EU. (2016). *Recommendations for EU labour migration policy*. In *Recruiting Immigrant Workers: Europe 2016*. OECD Publishing. <https://doi.org/10.1787/9789264257290-9-en>

OECD. (2020). *What is the impact of COVID-19 on migrants?* OECD Policy Responses to Coronavirus (COVID-19). Retrieved from <https://www.oecd.org/coronavirus/en/policy-responses>

OECD. (2021). *Post-pandemic recovery for migrants in the labor market*. Retrieved from <https://www.oecd.org/migration/>

OECD. (2023). *Reducing labor market inequalities for migrant workers*. Retrieved from <https://www.oecd.org/migration/>

Rasche, L. (2023). Why the EU needs a radical re-think on labour migration. Retrieved from <https://www.delorscentre.eu/en/publications/detail/publication/why-the-eu-needs-a-radical-re-think-on-labour-migration>

Savas, S. T., Knipper, M., Duclos, D., Sharma, E., Ugarte-Gurrutxaga, M. I., & Blanchet, K. (2023). Migrant-sensitive healthcare in Europe: Advancing health equity through accessibility, acceptability, quality, and trust. *The Lancet Regional Health – Europe*, 41, 100805. <https://doi.org/10.1016/j.lanepe.2023.100805>

Sommarribas, A., & Nienaber, B. (2021). Migration and mobility of third-country national labour workers to and inside Europe during the Covid-19 pandemic – a legal analysis. *Comparative Migration Studies*, 9(22), 1–20. <https://doi.org/10.1186/s40878-021-00229-1>

Stevens, A. J., et al. (2023). Discriminatory, racist, and xenophobic policies and practices against child refugees, asylum seekers, and undocumented migrants in European health systems. *The Lancet Regional Health – Europe*, 41, 100834. <https://doi.org/10.1016/j.lanepe.2023.100834>